

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

HEADWATER RESEARCH LLC

*Plaintiff,*

v.

SAMSUNG ELECTRONIC CO., LTD and  
SAMSUNG ELECTRONICS AMERICA, INC.,

*Defendants.*

Case No. 2:22-CV-00422-JRG-RSP

**DECLARATION OF MARTIN KÖHLER IN SUPPORT OF  
SAMSUNG'S OPPOSITION TO MOTION TO AMEND THE PROTECTIVE ORDER  
OR, ALTERNATIVELY, FOR DISCOVERY UNDER 28 U.S.C. § 1782 (DKT. 151)**

I, Martin Köhler, hereby declare:

1. I am a partner at the law firm of Hoyng Rokh Monegier in Düsseldorf, Germany, and counsel for Samsung Electronics GmbH ("SEG") in SEG's German litigation with Headwater Research LLC ("Headwater"). I have personal knowledge of the facts contained in the declaration and, if called upon to do so, I could and would testify competently to the matters herein.

2. German law provides "[a]ccess must be granted to at least *one natural person from each party* and their legal representatives or other representatives." GeschGehG (Act on the Protection of Business Secrets) § 19(1) (emphasis added, machine translation). Pursuant to this, the German court has explicitly held that Headwater inventor and founder Dr. Raleigh has access to confidential information in the German case.

3. The German court is unlikely to hear testimony at the hearing on April 18, 2024 SEG merely identified Mr. Kim as a potential fact witness in the case, not a witness for the

April hearing. There is no order by the German Court to summon Mr. Kim or any other witness for the hearing on April 18, 2024 so far.

4. A German court can order a party to provide documents in its possession under section 142 of the German Civil Code of Procedure. However, the conditions for this very narrowly applied provision are not met here and Headwater has not filed a request under section 142 of the German Civil Code of Procedure so far.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 2<sup>nd</sup> day of April, 2024, in Saarlouis, Germany.

/s/ Martin Köhler  
Martin Köhler